



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 210325-0071; RTID 0648-XC475]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to the 2022 Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS increases the 2022 Atlantic herring annual catch limit and Area 1A sub-annual catch limit by 1,000 metric tons (mt) for the remainder of 2022. This action is required by the herring regulations when, based on data through October 1, NMFS determines that the New Brunswick weir fishery landed less than 3,012 mt of herring. This notification informs the public of these catch limit changes.

DATES: Effective October 21, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, (978) 281-99272; or Carrie.Nordeen@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS published final 2022 specifications for the Atlantic Herring Fishery Management Plan on January 7, 2022 (87 FR 887), establishing the 2022 annual catch limit (ACL) and area sub-ACLs. Table 1 shows the current herring specifications for 2022 and the specifications as revised by this action for the remainder of the calendar year.

The NMFS Regional Administrator tracks herring landings in the New Brunswick weir fishery each year. The regulations at 50 CFR 648.201(h) require that if the New Brunswick weir fishery landings through October 1 are determined to be less than 3,012

mt, then NMFS subtracts 1,000 mt from the management uncertainty buffer and reallocates that amount to the ACL and Area 1A sub-ACL. When such a determination is made, NMFS is required to notify the New England Fishery Management Council and publish the ACL and Area 1A sub-ACL adjustment in the **Federal Register**.

Information from Canada’s Department of Fisheries and Oceans indicates that the New Brunswick weir fishery landed 1,385 mt of herring through October 1, 2022. Therefore, the Regional Administrator determined that, effective October 21, 2022, 1,000 mt will be reallocated from the management uncertainty buffer to the Area 1A sub-ACL and the ACL. This 1,000 mt reallocation increases the Area 1A sub-ACL from 1,075 mt to 2,075 mt and the ACL from 3,813 mt to 4,813 mt for the remainder of 2022.

Additionally, NMFS will use the adjusted allocations when we project whether catch from Area 1A will reach 92 percent of the Area 1A sub-ACL, or whether overall herring catch will reach 95 percent of the ACL. When Area 1A catch is projected to reach 92 percent of the Area 1A sub-ACL, catch from this area is reduced to 2,000 lb (907 kilogram (kg)) per trip, per calendar day. When overall catch is projected to reach 95 percent of the ACL, then catch in or from all herring management areas is limited to 2,000 lb (907 kilogram (kg)) per trip, per calendar day.

Table 1—Atlantic Herring Specifications for 2022

	Current Specifications (mt)	Adjusted Specifications (mt)
Overfishing Limit	26,292	26,292
Acceptable Biological Catch	8,767	8,767
Management Uncertainty	4,669	3,669
Optimum Yield/ACL	3,813	4,813
Domestic Annual Harvest	3,813	4,813
Border Transfer	0	0
Domestic Annual Processing	3,813	4,813
U.S. At-Sea Processing	0	0
Area 1A Sub-ACL	1,075	2,075
Area 1B Sub-ACL	0	0
Area 2 Sub-ACL	1,300	1,300
Area 3 Sub-ACL	1,824	1,824

Fixed Gear Set-Aside	30	30
Research Set-Aside (RSA)*	0 percent of each sub-ACL	0 percent of each sub-ACL

* Because RSA participants are not pursuing RSA in 2022, we did not deduct it from the sub-ACLs. RSA will be revisited for 2023-2025 specifications.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 648, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this inseason adjustment because it would be unnecessary and contrary to the public interest. This action allocates a portion of the management uncertainty buffer to the ACL and Area 1A sub-ACL for the remainder of the calendar year pursuant to a previously published regulation that provides no discretionary decision-making. This reallocation process was the subject of prior notice and comment rulemaking. The adjustment is routine and formulaic, required by regulation, and is expected by industry. The potential to reallocate the management uncertainty buffer was also outlined in the 2021-2023 herring specifications that were published April 1, 2021 (86 FR 17081), which were developed through public notice and comment. Further, this reallocation provides additional economic opportunity for the herring fleet. If implementation of this action is delayed to solicit public comment, the objective of the fishery management plan to achieve optimum yield in the fishery could be compromised. Deteriorating weather conditions during the latter part of the fishing year may reduce fishing effort, and could also prevent the ACL from being fully harvested. This would result in a negative economic impact on vessels permitted to fish in this fishery. Based on these considerations, NMFS further finds, pursuant to 5 U.S.C 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons stated above.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 21, 2022.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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